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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Dominick Cestro,

Plaintiff,

v.

Snowflake Justice Court,

Defendant.

No. CV-23-08608-PCT-JAT

ORDER

Pending before the Court is Plaintiff's Motion for Extension of Time for Service on two named parties: the County of Navajo and Michael Brogan. (Doc. 20). The Federal Rules of Civil Procedure require service within ninety (90) days after the complaint is filed and provide that if Plaintiff fails to timely serve and fails to show good cause for the lack of timely service, the Court must dismiss the action without prejudice or order that service be made within a specified time. Fed. R. Civ. P. 4(m).

Plaintiff filed his complaint on November 21, 2023; as such, service was due on February 19, 2024. Plaintiff moved for an extension of time on February 25, 2024, six (6) days after service was due, listing various reasons for the request for an extension. However, the Court finds that the motion Plaintiff filed fails to show good cause for his delays not only in executing service but also in filing the pending motion. As such, the Court orders Plaintiff to file a more detailed response to this Order showing good cause for these failures. If Plaintiff fails to show such good cause, the Court will dismiss the unserved Defendants without prejudice.

Upon examination of the record, the Court also notes that the service Plaintiff executed on Defendant Hunter Lewis is deficient in multiple ways. First, the proof of service is dated April 23, 2024—four days after the deadline to serve. (Doc. 18). Second, service appears to have been executed by Plaintiff. (*Id.*). The Federal Rules of Civil Procedure specify who is permitted to execute service: "[a]ny person who is at least 18 years old and *not a party* may serve a summons and complaint." Fed. R. Civ. P. 4(c)(2) (emphasis added). Thus, the Court also orders Plaintiff to show good cause why the Court should not dismiss Defendant Hunter Lewis for failure to timely and properly serve.

The Court emphasizes to Plaintiff that if Plaintiff fails to show cause, the Court will dismiss all three remaining defendants, and thus will dismiss Plaintiff's suit, without prejudice.

Accordingly,

IT IS ORDERED that within fourteen (14) days from the date of this Order, Plaintiff must file a response to this Order showing cause why the Court should not dismiss all three remaining defendants in this action without prejudice for failure to effect timely service pursuant to Federal Rule of Civil Procedure 4(m). Plaintiff's response to this Order must not exceed ten (10) pages.

IT IS FURTHER ORDERED that Plaintiff's Motion for Extension of Time for Service, (Doc. 20), remains pending.

Dated this 30th day of April, 2024.

James A. Teilborg

Senior United States District Judge